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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.693 OF 2005
IN
SUMMARY SUIT NO.1386 OF 2005

Time Prints).. Plaintiff

Versus

M/s.Donear Industries Ltd.).. Defendants

Mr.Vipul Shukla for the Plaintiff.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 10TH APRIL 2006

P.C.:

. This Summons for Judgment has been filed in respect of the Summary Suit filed by the Plaintiffs. The Summary Suit is filed for recovery of the amount for goods sold and delivered. According to the Plaintiff, an invoice dated 28th June 2001 for goods worth Rs.1,53,990/- was sent to the Defendants. The payment was to be made within fifteen days from the date of the invoice. It appears that no payment has been made despite the Plaintiff calling upon the Defendants to repay the same.

2. On 11th July 2002, an amount of Rs.89,147/- was paid by the Defendants to the Plaintiff thereby leaving an amount of Rs.64,893/- as the outstanding amount.

3. Company Petition No.559 of 2003 was also filed

by the Plaintiff in which the Defendants were directed to deposit a sum of Rs.98,250/- in Court. The Summary Suit has been filed for recovery of an amount of Rs.64,843/- including the interest at the rate of 30% per annum as indicated in the particulars of claim at Exhibit "F" to the Plaint.

4. The defence raised by the Defendants in the Written Statement is that the Company Petition has already been filed for winding up of the Defendant Company and, therefore, this Summary Suit should not be decreed. Another defence raised is that the goods supplied were not upto the specifications stipulated by the Defendants. The Defendants state that although the printed material was delivered to them in June 2001, it was returned in July 2002. This defence is untenable.

5. However, with a view to give the Defendants an opportunity to defend the Suit, conditional leave granted to the Defendants on the Defendants depositing a sum of Rs.65,000/- in this Court within four weeks from today failing which the Plaintiff will be entitled to a decree.

6. If the Defendants deposit the amount as aforesaid, the Prothonotary & Senior Master to invest the same in a Fixed Deposit of a Nationalised Bank initially for a period of three years, to be renewed thereafter till the pendency of the Suit. The Suit

shall then be transferred to the list of Commercial Causes.